IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 14 OF 2006

Shri Vishal Fati Dessai,
Son of Fati Dessai,
Major in age, married,
Occupation Business,
resident of Chawdi
Canacona, Taluka Canacona. ... Applicant

versus

1. Mr. Nami Govind Gaonkar,
   Resident of Barcem, Paddi,
   Quepem-Goa.

2. State
   Through Public Prosecutor,
   Panaji Goa. ... Respondents

Mr. V. A. Lawande, Advocate for the Applicant.

Ms. Sudha C. Pai Kir, Advocate for the Respondent No.1.

Ms. W. Coutinho, Public Prosecutor for the Respondent No.2.

CORAM : N. A. BRITTO, J.

DATE : 5TH JULY, 2006.

ORAL ORDER

Heard Mr. V. A. Lawande, the learned Counsel on behalf of the applicant/accused and Ms. Sudha C. Pai Kir, the learned Counsel on behalf of the respondent no.1/complainant.

2. The applicant is an accused who has been convicted and sentenced under Section 138 of the Negotiable Instruments Act, 1881(Act, for short) by the learned J.M.F.C., Canacona. The subject matter of the complaint filed by the said complainant were two cheques, both in the sum of Rs.40,000/-. The learned J.M.F.C. directed the accused to pay a compensation of Rs.19,000/- and in default the accused was ordered to suffer imprisonment for a period of 2 months. The said Order of the learned J.M.F.C. was affirmed by the learned Additional Sessions Judge and both the Orders of the Courts below were stayed by this Court by Order dated 13-4-2006 upon a condition that the accused deposits a sum of Rs.50,000/- before the learned J.M.F.C., Canacona within a period of 3 weeks. That time was extended from time to time but it has been submitted by learned Counsel Ms. Pai Kir that the accused failed to deposit the said

amount. It was also stipulated in the said Order dated 13-4-2006 that upon the failure of the accused to deposit the said sum of Rs.50,000/-, the bail granted would automatically stand cancelled. It has been further submitted by learned Counsel Ms. Pai Kir that not only the accused failed to pay the said amount of Rs.50,000/- as ordered by this Court but the accused has also been absconding.

3. The case of the complainant was that the said two cheques in the sum of Rs.40,000/- each drawn on Goa Urban Co-operative Bank Ltd., Canacona was issued by the accused towards the money due by the accused towards the supply of cashew nuts made by the complainant to the accused. The case of the accused was that he had given the said two cheques by way of security and that prior to the date mentioned on the said cheques the amount due to the complainant was already paid by the accused and, therefore, there was no liability to be met by the accused. Both the Courts below on the analysis of the evidence produced by the complainant as well as the accused have disbelieved the case of the accused and have accepted the case of the complainant as proved. In the light of the concurrent

findings given by both the Courts below, in my view, there is no case made out for interference in the discretionary revisional jurisdiction.

4. Consequently, the revision application is hereby dismissed. Criminal Miscellaneous Application No.207 of 2006 shall stand disposed of.

N. A. BRITTO, J.

RD